



CANNON BUILDING  
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STATE OF DELAWARE  
**DEPARTMENT OF STATE**

DIVISION OF PROFESSIONAL REGULATION

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PUBLIC MEETING MINUTES:	<b>COUNCIL ON REAL ESTATE APPRAISERS</b>
MEETING DATE AND TIME:	<b>Tuesday, April 20, 2010 at 9:30 a.m.</b>
PLACE:	861 Silver Lake Boulevard, Dover, Delaware <b>Conference Room A</b> , second floor of the Cannon Building
MINUTES APPROVED:	<a href="#">May 18, 2010</a>

**Members Present**

Brad Levering, Chair, Professional Member  
Gary V. Parker, Vice Chair, Professional Member  
Stephen Huston, Professional Member  
William Diveley, Professional Member  
Ronald Mandato, Professional Member  
Linda Carter, Public Member

**Division Staff/Deputy Attorney General**

Patricia Oliva, Deputy Attorney General  
Nicole Williams, Administrative Specialist II

**Members Absent**

Selena Zook, Public Member  
Frank Long, Public Member

**Others Present**

Earl Loomis  
Jahn Noonan

**Call to Order**

Mr. Levering called the meeting to order at 9:38 a.m.

**Review and Approval of Minutes**

The Council reviewed the minutes from the April 20, 2010 meeting. Mr. Huston made a motion to approve the minutes as submitted, seconded by Mr. Diveley. The motion carried unanimously.

### **Unfinished Business**

#### **Strategic Planning: REA Commission – Competitive Market Analysis Legislative Briefing**

Ms. Oliva was not in attendance at the meeting yet and therefore the Council moved to agenda item 3.1.2 for discussion.

Ms. Oliva advised the Council about the letter regarding the use of Broker Price Opinion's (BPO's) sent to Mr. Collins at the time that Mr. Huston was the Council Chair. She advised that a member from the Real Estate Commission had contacted her and advised that no legislation was being presented at this time due to the Sunset Committee and that the Commission had accepted all of the Council's recommended changes. Mr. Mandato advised that the Delaware Association of Realtors advised their agents to not utilize Competitive Market Analyses or BPO's for lending purposes but to seek the qualifications of a licensed or certified appraiser. Ms. Oliva advised that at this time the REA Commission is not proposing any legislation at all and has left the statute language as it currently stands. Ms. Oliva advised that the Commission did accept all the recommended changes from the Council to the statute. There was no further discussion.

#### **Appraisal Reports Review Process and Checklist Update**

Ms. Williams advised the Council of the updated more detailed checklist for the Council to utilize in reviewing the appraisal report samples. The Council reviewed the draft form.

Ms. Oliva entered the meeting at 9:45 p.m.

Ms. Williams further advised that she did contact the Appraisal Qualifications Board requesting if they had a USPAP review form that states can use in assisting their review process and advised that the Appraisal Foundation developed a draft Voluntary Action Matrix for State Regulatory agencies to utilize in determining the level of non compliance with the appraisal reports that are reviewed.

Mr. Levering inquired how the Council will proceed once the reports reviewed are found non compliant. Ms. Williams advised that the Council will utilize the matrix to determine the appropriate action for the level of non compliance. Mr. Levering inquired if the Council would be uniform in their actions. Mr. Huston advised that the matrix would make the Council's determinations uniform in practice and procedures.

The Council determined that the Council member assigned to request the work samples from an applicant's experience log will review the submitted appraisal sample reports and utilize the Appraisal Foundation's Voluntary Action Matrix to determine the level of non compliance and then proceed with the correction action(s).

The Council moved back to agenda item 3.1.1, Strategic Planning, as Ms. Oliva is now present and can provide her update to the Council.

#### **Establish Assessors Subcommittee Meeting Date**

Mr. Huston advised the Council that the Assessors Subcommittee needs to determine a date to meet to discuss the regulations for Assessors. Mr. Diveley and Mr. Parker will confer with Mr. Huston after the meeting to determine an amicable date for early May. Mr. Huston will contact Ms. Williams with the date and Ms. Williams will notice the meeting date at least seven (7) days in advance for public notice.

Update to Current Statute Changes

Mr. Levering advised the Council of the statute changes that were presented in a letter to Mr. Collins. Ms. Oliva advised that the Council, with the assistance of Mr. Loomis, determined there were some additional changes that needed to be made to the statute. Mr. Parker briefly discussed the definition for Licensed Real Property Appraiser and inquired if the Council would like to revisit the definition to add the definitions from the Appraisal Qualification Board (AQB). Mr. Levering reviewed a copy of the Bill that was drafted and requested to have each Council Member have a copy for their review. The Council further discussed.

Mr. Parker read the AQB's definition of Licensed Real Property Appraiser. Mr. Huston advised that he agreed with the AQB's definition. Mr. Parker advised that the current definition in the statute is not as specific as the AQB's definition. Ms. Oliva advised that the current statute does not reference the AQB only the regulations reference the AQB and this type of change would require a statute change. Mr. Levering advised that the AQB's definition needs to be delineated specifically in the statute. The Council further discussed.

Mr. Diveley advised that the statute should reference the AQB, not specifically incorporate the same text of the AQB. Mr. Loomis read a section specifically from the AQB where the AQB advised that each State should not rely on the AQB for regulatory definitions but rather a "suggestion." The Council further discussed.

Mr. Loomis advised that the purpose of specifying the Licensed Real Property Appraiser definition was to provide clarity for licensees that are Licensed Real Property Appraisers.

Ms. Noonan addressed the Council with a question. The Council addressed Ms. Noonan's question.

The Council further discussed.

Mr. Loomis addressed the Council again regarding the use of transaction value vs. market value. Mr. Parker addressed Mr. Loomis's concerns. The Council further discussed.

Mr. Diveley advised that it would be most beneficial to the Council to simply reference the AQB rather than restate the complete definition.

Ms. Noonan addressed the Council advising that it would be most beneficial for Licensed Appraisers if the Council would specify the definition.

Mr. Levering addressed Mr. Loomis again regarding the definition of transaction vs. market value. Mr. Loomis provided his opinion to the Council. The Council further discussed.

Ms. Oliva advised that the Council the word "transaction" was taken out by the Council's recommendation. Mr. Levering advised that he requested Ms. Oliva to replace "transaction value" with "market value." Mr. Parker addressed the Council with his determination. Mr. Parker made a motion to withdraw the proposed statute change to the Licensed Real Property Appraiser definition and to revise the statute to incorporate the adoption of the AQB's definitions in the current statute as published from time to time in the AQB's Real Property Appraiser Qualification Criteria, seconded by Mr. Diveley. The Council further discussed.

Ms. Carter had questions regarding the AQB's standards and the Council's standards and further advised that since the Council already utilized the AQB's standards then what is the issue with adopting the AQB's Licensed level definition. The Council further discussed.

Mr. Parker advised the Council how the inclusion of market value could be further confusing for licensees. Mr. Levering advised that the Council is specifically referring to the Licensed level only. Mr. Parker advised that the Council will be in the same situation when it comes to the definitions in Certified Residential and Certified General. Ms. Oliva advised the Council that the Licensed definition is the same verbatim definition as the AQB without the explanatory language. The Council further discussed.

The Council called for a vote on the motion presented earlier by Mr. Parker. Mr. Parker restated his motion, seconded by Mr. Diveley. The motion carried by majority vote. Mr. Levering opposed the motion.

Mr. Levering made a motion to strike "transaction value" and replace it "market value". The motion was not seconded therefore the motion failed. The Council took a five minute break at 11:01 a.m.

The Council resumed at 11:18 a.m.

#### Status of Complaints

Mr. Diveley advised the Council that complaint 19-6-09 has been dismissed.

Mr. Parker advised that 19-11-09 is also closed.

#### **New Business**

##### New Complaints

Complaint 19-1-10 of Sussex County was assigned to Mr. Huston.

##### Applications for Council Review and Approval

The Council reviewed the application for Alan Desrosiers for Certified Residential by reciprocity. Mr. Parker advised that Mr. Desrosiers appears to be an assessor. Ms. Oliva clarified that the Council needs to propose to deny Mr. Desrosiers application pursuant to 24 Del. C. §4011(a). Mr. Levering made a motion to propose to deny Mr. Desrosiers application, seconded by Mr. Parker. The motion carried unanimously.

The Council reviewed the application for Jahn Noonan for Certified Residential by Exam (upgrade) with her request to sit for exam and review of her experience log and education. Mr. Huston made a motion to approve Ms. Noonan to sit for exam based upon her completed experience log and qualifying education hours and degree earned, seconded by Mr. Diveley. The motion carried unanimously.

##### Ratification of Continuing Education Activities

Mr. Huston reviewed the Continuing Education Activities applications that were submitted below:

Dynasty School

2010-2011 National USPAP – 15 CE hours online

Advanced Residential Application & Case Studies – 15/14 QE/CE hours online

Hospitality Valuation Services, submitted by Frank Selby

- Hotel Valuations: New Techniques for Today's Uncertain Times – 7 CE hours classroom
- Appraisal Institute
  - Advanced Market Analysis and Highest & Best Use – 33 CE hours classroom
  - Online Eminent Domain & Condemnation – 7 CE hours
- McKissock, LP
  - Delaware Appraisal Law and Regulations – 3 CE hours online
- Maryland Association of Appraisers, Inc. (Renewals)
  - Real Estate Data Analysis – 7/21/10 & beyond – 7 CE hours
  - Accrued Depreciation Techniques – 8/23/10 & beyond – 7 CE hours
  - Oddball Property Appraisal – 5/18/10 & beyond – 3 CE hours
  - The Significance of Soils Analysis in the Valuation of Real Property – 5/26/10 & beyond – 6 CE hours
  - Simplifying Capitalization Rates, Discount Rates, and Ratios – 6/3/10 & beyond – 7 CE hours
  - Valuation of Unimproved Land – 5/3/10 & beyond – 6 CE hours
  - Understanding Modular Home Construction – 6/8/10 & beyond – 4 CE hours
  - Understanding Relocation Appraisal Report Writing – 5/13/10 & beyond – 6 CE hours
  - Fannie Mae/Freddie Mac Guidelines – 6/10/10 & beyond – 3 CE hours
  - Writing the Residential Report to Conform to USPAP – 6/29/10 & beyond – 3 CE hours
  - What's It Worth: Understanding Residential Market Values – 6/29/10 & beyond – 3 CE hours
  - Evaluation of Log Home Construction – 7/9/10 & beyond – 7.5 CE hours
  - Acquisition/Right-of-Way Appraising – 7/19/10 – 6 CE hours
  - Preservation Easements and Valuation – 8/3/10 & beyond – 4 CE hours
  - Becoming a More Effective Appraiser – 5/5/10 & beyond – 6 CE hours
- Loomis Appraisal School
  - Valuing Contaminated Properties – classroom – 7 CE hours
  - Appraisal Issues 2010-2011 – classroom – 4 CE hours
  - Hot Topics in Residential Appraisal and Mortgage Fraud – classroom – 7 CE hours
- ASFMRA
  - Income Approach for General Appraisers, Part 1 (A303) – 7/12-15/10 – 30/27 QE/CE hours (AQB approved)
  - Appraising Agricultural Land in Transition – 7/12/10 – 8 CE hours
  - Minerals Appraisal Seminar – 7/14/10 – 8 CE hours
  - Expert Witness Preparation and Testimony – 7/13/10 – 8 CE hours
  - Tax Implications of Real Estate – 7/13-14/10 – 16 CE hours (8 hours each day)

Mr. Huston advised the Council that he reviewed all the submitted CE applications from the above providers and made a motion to approve the completed applications as submitted, seconded by Mr. Parker. The motion carried unanimously.

#### Ratification of Issued Licenses List

Ms. Williams advised that licenses were issued to Andrew Paffenroth of MD (Cert Residential), James Nolan of MD, PA, DC, VA (Cert Residential), Aytan Dove of PA (Cert General), and Dennis McGeehan of PA (Cert General). Mr. Huston made a motion to ratify the listing, seconded by Mr. Diveley. The motion carried unanimously.

Review of Temp Applications (for discussion only)

Ms. Williams advised the Council of the temp applications issued to Kevin Kernen for Sussex, Kent, and New Castle Co., Samuel T. Gill for New Castle Co., Mark Wigler for New Castle Co., Wade Collins for New Castle Co., Gerald Rasmussen for New Castle Co., James Turlington for Sussex Co., Donna Cavallaro for Sussex Co., and George King for Sussex Co. There was no further discussion by the Council.

**Other Business before the Council (for discussion only)**

Mr. Huston inquired about Mr. Nickel's appeal. Ms. Oliva provided the Council with an update and advised that the briefing she prepared on behalf of the Council is firm in the Council's position. Ms. Oliva advised that the notice to propose to deny language was not as specific in notifying the licensee that he could be disciplined in regards to his renewal. Ms. Oliva further advised the Council what the Superior Court's action could be regarding the appeal. Ms. Oliva advised that the statute states that the disciplinary action is not effective until after the appeal process, therefore the Council will need to date letters of reprimand out from 30 days of the appeal process instead of the date of the final order.

Mr. Levering addressed Mr. Mandato in regards to prior appraisal reports reviewed and determining the appropriate action, whether the reports were so egregious in non compliance that a complaint would need to be filed or another action would need to be taken. Ms. Williams advised both Council members that they need to determine the appropriate action to take regarding these reports. Ms. Oliva concurred.

**Public Comment**

Mr. Loomis inquired about the Appraisal Subcommittee's reporting of disciplinary actions. Ms. Williams explained the ASC's reporting process.

Mr. Loomis addressed the Council for clarification on the motion made regarding the statute change for the Licensed level definition. The Council addressed Mr. Loomis and clarified the motion made.

**Next Meeting**

The next meeting is scheduled for May 18, 2010 at 9:30 a.m. in Conference Room A, second floor, Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

**Adjournment**

With no further business being before the Council, Mr. Diveley made a motion, seconded by Mr. Parker to adjourn the meeting. The meeting adjourned at 11:40 a.m.

Respectfully submitted,



Nicole M. Williams  
Administrative Specialist II